

COUNTY NOTICES OF PROPOSED RULEMAKING

Pursuant to A.R.S. §§ 49-112(A) or 49-112(B)

MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION

1. Heading and number of the proposed rule, ordinance, or other regulations:

Rule 310 (Fugitive Dust Sources)

Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways)

Appendix C

2. Summary of the proposed rules, ordinance, or other regulations:

Maricopa County is proposing to revise Rule 310 (Fugitive Dust Sources), Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways), and Appendix C and to submit such rules as a revision to the (Arizona) State Implementation Plan (SIP).

On May 10, 1996, the Environmental Protection Agency (EPA) reclassified the Maricopa County PM₁₀ Nonattainment Area from moderate to serious because Maricopa County did not meet the 24-hour national ambient air quality standard (NAAQS) for PM₁₀ (PM₁₀ is particulate matter that is 10 microns (0.00039 inch) and less in size).

On May 9, 1997, the Arizona Department of Environmental Quality (ADEQ) submitted to EPA a "limited" Serious Area PM₁₀ Plan, which described Maricopa County's goals for attaining the 24-hour NAAQS for PM₁₀. In order to meet the goals of the "limited" serious area PM₁₀ Plan, Maricopa County revised Rule 310 (Fugitive Dust sources), adopted new Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots, and Unpaved Roadways), which limits PM₁₀ emissions from open areas, vacant lots, unpaved parking lots, and unpaved roadways (these areas are not addressed in Rule 310), and adopted new Appendix C, which describes the procedures for the test methods associated with Rule 310 and Rule 310.01.

In Rule 310 and Rules 310.01, Maricopa County is proposing to change all places where Appendix C, Section 1 (Visual Determination of Opacity of Emissions from Unpaved Roads, Unpaved Haul/Access Roads, and Unpaved Parking Lots on Active Work Sites Re: Plumes) is referenced to Appendix C, Section 2.1 (Test Methods for Stabilization for Unpaved Roads and Unpaved Parking Lots). In addition, Maricopa County is proposing to revise Rule 310, Rule 310.01, and Appendix C in order to clarify the meaning and intent, as suggested by Staff and Stakeholders and as suggested by the EPA in written comments dated September 17, 1999, and November 29, 1999. Maricopa County conducted 3 stakeholders' meetings and 2 public workshops to discuss these changes and will further discuss these changes during the Public Hearing scheduled for February 16, 2000.

3. A demonstration of the grounds and evidence of compliance with A.R.S. 49-112(A) or A.R.S. 49-112(B):

The Control Officer of the Maricopa County Environmental Services Department affirms the following:

Pursuant to A.R.S. § 49-112(A), as enacted in 1994, Maricopa County may adopt rules that are more stringent than or in addition to a provision of the state, provided that the rule is necessary to address a peculiar local condition and if it is either necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible or if it is required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the Federal Government to enforce federal statutes or regulations if the county rule is equivalent to federal statutes or regulations; and if any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer that permit program.

Pursuant to A.R.S. § 49-112(A), Rule 310, Rule 310.01, and Appendix C comply with the requirements in the following ways: the rules address the peculiar local condition of the Maricopa County Nonattainment Area "serious" classification for PM-10; the rules implement best available control measures (BACM) as required by the federal Clean Air Act (CAA) for "serious" PM-10 nonattainment areas, and need to be submitted to EPA for inclusion in the SIP; and permit fees will not change as a result of these rules. On May 10, 1996, the Maricopa County Nonattainment Area was reclassified to "serious" for PM-10 in accordance with the CAA (61 FR 21372). Rule 310, as adopted on September 20, 1994, has been approved by EPA as a SIP revision implementing reasonably available control measures (RRACM) for a "moderate" PM-10 nonattainment area. On August 3, 1998, EPA promulgated a Federal Implementation Plan (FIP) for Maricopa County. the FIP was initiated because, although Arizona had previously been able to show compliance in addressing sources contributing to violations of the annual standard, the state could not show full

compliance in addressing specific fugitive dust sources. These sources were shown to contribute to violations of the PM-10 24-hour standard in the nonattainment area. EPA found that Rule 310, due to inadequate commitment of resources by the county, does not assure enforcement of RACM for unpermitted sources, including vacant lots, unpaved parking lots, and unpaved roads, that are legally subject to the rule (63 FR 15925). Provisions addressing unpermitted sources have been separated from Rule 310 and are now addressed under Rule 310.01. On November 9, 1999, the EPA sent a letter to Governor Jane D. Hull indicating it could not approve the Serious Area Attainment Plan submitted by the Maricopa Association of Governments (MAG). This package will be submitted to EPA in the Revised Serious Area Plan that MAG is preparing and will replace the federal rule finalized by EPA in the FIP. Appendix C compiles test methods used for compliance purposes in Rules 310 and 310.01. The Section 112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program which is administered under direct statutory authority. Therefore, these rules are not being adopted/revised in lieu of a state program.

4. Name and address of the person to whom persons may address questions or comments

Name: Johanna Kuspert, Air Quality Planner
Address: Maricopa County Environmental Services Department
Air Quality Division
1001 North Central Avenue #201
Phoenix, Arizona 85004
Telephone: 602-506-6710
Fax: 602-506-6179

5. Where persons may obtain a full copy of the proposed rules, ordinance, or other regulations

Name: Maricopa County Environmental Services Department
Air Quality Division
Address: 1001 North Central Avenue #201
Phoenix, Arizona 85004
Telephone: 602-506-6010
Fax: 602-506-6179

**NOTICE OF PUBLIC HEARING ON PROPOSED
RULEMAKING
Pursuant to A.R.S. §§ 49-112(A) or 49-112(B)**

**MARICOPA COUNTY
ENVIRONMENTAL SERVICES DEPARTMENT, AIR QUALITY DIVISION**

1. Heading and number of the proposed rules, ordinance, or other regulations that are the subject to the public hearing

Rule 310 (Fugitive Dust Sources)
Rule 310.01 (Fugitive Dust from Open Areas, Vacant Lots, Unpaved Parking Lots and Unpaved Roadways)
Appendix C

2. Date, time, and location of public hearing scheduled

Date: Wednesday, February 16, 2000
Time: 9 am
Location: Maricopa County Board of Supervisors Auditorium
205 W. Jefferson St.
Phoenix, Arizona

Nature of Public Hearing: to Discuss and Approve the Above Listed Rules.

County Notices Pursuant to A.R.S. §§ 49-112(A) or 49-112(B)

3. County personnel to whom questions and comments may be addressed

Name: Johanna Kuspert, Air Quality Planner
Address: Maricopa County Environmental Services Department
Air Quality Division
1001 North Central Avenue #201
Phoenix, Arizona 85004
Telephone: 602-506-6710
Fax: 602-506-6179

4. Any other pertinent information concerning the above described rules, ordinance, or other regulations

Please refer to the Notice of Proposed Rules which appears in this issue of the *Arizona Administrative Register*.